

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARTIN RACEY, KEVIN MCDONALD, GARY
WILLIAMS and ALEX ABREU, Individually and
on Behalf of All Others Similarly Situated,

Case No.: 15 CV 8228 (KPF)

Plaintiffs,

-against-

**DECLARATION OF
JEAN THEODORE**

JAY-JAY CABARET INC. d/b/a FLASH
DANCERS, AAM HOLDING CORP. d/b/a
PRIVATE EYES, 59 MURRAY ENTERPRISES,
INC. d/b/a NEW YORK DOLLS, BARRY I.
LIPSITZ and BARRY LIPSITZ, JR., Jointly and
Severally,

Defendants.
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I, Jean Theodore, pursuant to 28 U.S.C. § 1746, declare upon personal knowledge and under penalty of perjury that the following is true and correct:

1. I have work at Flashdancers Gentlemen's Club ("Flashdancers") and New York Dolls Gentlemen's Club ("NY Dolls") for approximately 20 years, always in the capacity as a "floor man."

2. I am competent in all respects to make this affidavit and am personally familiar with the facts stated herein, all of which are true and correct.

3. I work at Flashdancers generally three (3) nights per week.

4. I work at NY Dolls generally one (1) night a week.

Floor Man

5. In my capacity as floor man I interact with customers and make sure that customers are comfortable. If a customer needs something I make sure that they get it. I introduce customers to wait staff, assign the wait staff to the customers and assign the customer

to a table. I do not see myself as a “bouncer,” but rather a customer service worker managing customer interactions at the club. However, floor men are also in charge of security at gentlemen’s clubs.

Club Hours

6. Flashdancers is open seven days a week, opening at 8:00 p.m. on Sundays.
7. NY Dolls is closed on Sundays.

Hiring

8. When I first started working I worked day shifts on some days and night shifts on others.

Scheduling

9. The day shift is between noon and 8:00 p.m.
10. The night shift begins at 8:00 p.m. and ends when business is concluded at the club.
11. I never began a shift other than at noon or 8:00 p.m. Floor men do not begin a shift at any time other than noon or 8:00 p.m.
12. There is no reason to start the night shift at 7:30 p.m., because the day shift is still performing the floor man role until then.
13. When I was hired to work at Flashdancers and hired to work at NY Dolls I was told that the late shift ended when business at the respective clubs was concluded.
14. At 4:00 a.m. business at either Flashdancers or NY Dolls would be coming to a close and customers are advised that the club is closing and they are directed to exit.
15. Generally four (4) days a week, all business is concluded by 4:30 a.m. or 4:45 a.m. at both Flashdancers and NY Dolls.

16. At both Flashdancers and NY Dolls generally three (3) days per week business is concluded and all floor men have left by 5:00 a.m.

17. If something is truly out of the ordinary, business can conclude at both clubs as late as 5:30 a.m., but that is extremely rare.

18. If a customer wanted to buy two (2) hours in a private room at 3:45 a.m., the manager would tell him “no,” and would limit the customer to buy at most a half hour only.

19. Managers usually only allow customers to buy time such that the customer’s time in the room ends at 4:00 a.m. or at latest 4:15 a.m.

20. There has been one or two times when a regular customer was allowed by the manager to stay in a room past 4:15 a.m., but in that case the manager told me and the other floor men that we could go home and did not have to stay until the customer and others at the club left.

21. From when I was hired I understood that the late shift was not set at eight (8) hours.

Break

22. I take a meal break every shift. I also take shorter breaks throughout the night whenever I feel that I need to. I take extra breaks to grab a snack or just rest.

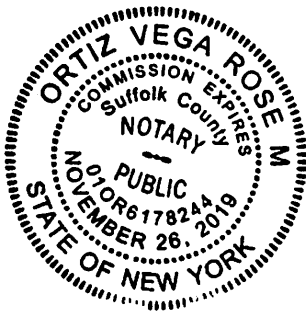
23. Generally I eat a meal at around at about 2:00 a.m. and take my break at that time. The other floor men also take at least one (1) break during their shift.


24. I know this because all of the floor men need to work together to accommodate everyone’s break and we rotate and make sure that we can cover for the floor man who is on break.

Dated: April 2, 2016


JEAN THEODORE

Subscribed and sworn to before me on this 2 day of April, 2016.




Notary Public, in and for
the State of New York